

## REMARKS

The Office Action of August 7, 2008 has been received and carefully reviewed. It is submitted that, by this Response, all bases of rejection are traversed and overcome. Upon entry of this Amendment, claims 12-19, 21-38 and 45-47 remain in the application (Applicants note that they inadvertently marked claim 46 as a second occurrence of 45, and claim 47 as claim 46 in the previous response—this error has been corrected here). Reconsideration of the claims is respectfully requested.

Claims 12-18, 21-29, 33-34, and 36-37 stand rejected under 35 U.S.C. § 103(a) as being obvious over Prasad et al. (U.S. Patent Application Publication No. 2003/0082427) in view of Nakanishi et al. (U.S. Patent No. 6,475,655). Claims 19, 35, 38 and 47 stand rejected under 35 U.S.C. § 103(a) as being obvious over Prasad in view of Nakanishi, and further in view of Adams et al. (U.S. Patent Application Publication No. 2005/0118468). Claims 30-32 stand rejected under 35 U.S.C. § 103(a) as being obvious over Prasad in view of Nakanishi, and further in view of Hockaday (U.S. Patent Application Publication No. 2002/0182459).

Prasad et al., based on its filing and publication dates, qualifies as anticipatory prior art, *if at all*, only under §102(e). As set forth above, the Examiner rejected claims 12-19, 21-38 and 45-57 under 35 U.S.C. §103(a) based on Prasad et al. with one or more of the secondary references. However, pursuant to 35 U.S.C. §103(c)(1), “[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Therefore, according to §103(c), it is possible to overcome all of these §103(a) rejections because Prasad et al. and the present application are commonly owned and were commonly owned at the time the invention claimed in the present application was made. A direct statement, signed by Applicants’ attorney, that the present application, as well as Prasad et al., were owned by or subject to an obligation of

assignment to Hewlett-Packard Development Company, L.P. at the time the present invention was made is filed concurrently herewith. Thus, under the provisions of §103(c), it is submitted that the §103(a) rejection based on Prasad et al. should be withdrawn.

The Applicants further submit that none of the secondary references (i.e., Nakanishi, Adams or Hockaday) teach or suggest the Applicants' invention as defined in the pending claims.

For all the reasons stated above, it is submitted that Applicants' invention as defined in independent claims 12, 45 and 47, and in those claims depending ultimately therefrom, is not anticipated, taught or rendered obvious by the Prasad, Nakanishi, Adams and Hockaday references, either alone or in any combination, and patentably defines over the art of record.

In summary, claims 12-19, 21-38 and 45-47 remain in the application. It is submitted that, through this Amendment, Applicants' invention as set forth in these claims is now in a condition suitable for allowance. Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact Applicants' Attorney at the below-listed telephone number.

Respectfully submitted,

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Alan Shibata et al.  
Serial Number: 10/698,756  
Filing Date: October 31, 2003  
Confirmation Number: 1819  
Examiner/Group Art Unit: Monique M. Wills/1795  
Title: METHOD AND APPARATUS FOR FUELING  
FUEL CELLS

STATEMENT CONCERNING COMMON OWNERSHIP  
PURSUANT TO 35 U.S.C. § 103(c)

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Julia Church Dierker, Applicants' attorney in the instant application (U.S. Application S.N. 10/698,756), state that the instant application, as well as Prasad et al. (U.S. Patent Application Publication No. 2003/0082427) were both, at the time the invention claimed in the instant application was made, owned by or subject to an obligation of assignment to Hewlett-Packard Development Company, L.P.

/Julia Church Dierker/  
Julia Church Dierker, Reg. No. 33368

November 6, 2008  
Date